

Attorney Docket #502902-228PUS

PATENT

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of  
Herbert BRUNNER et al.  
Serial No.: 10/574,026  
Filing Date: March 23, 2006  
For: White-Emitting LED Having a Defined Color  
Temperature

DECLARATION UNDER 37 C.F.R. §1.131

We, Herbert Brunner, Tim Fiedler, Frank Jermann, Jörg STRAUß, and Martin Zachau, the joint inventors named in U.S. Patent Application Serial Number 10/574,026, declare as follows:

1. This declaration is submitted in support of U.S. Patent Application Serial Number 10/574,026 and, specifically to establish an invention date prior to September 23, 2003, the earliest U.S. effective filing date of published U.S. Patent Publication No. 2005/0205845 of Deising et al., one of the references cited by the Examiner in rejecting pending claims under 35 U.S.C. §103(a).

2. The subject patent application is a U.S. national phase application of International application number PCT/DE04/02138 filed September 24, 2004, which claims priority from German Patent Application No. DE 103 44 331.2 filed September 24, 2003, which is the constructive reduction to practice date of the subject invention.

3. A certified copy of German Patent Application No. DE 103 44 331.2 has been previously submitted to the Patent Office in connection with the present application. To further perfect the priority claim, we enclose herewith an English translation of German Patent Application No. DE 103 44 331.2 (Exhibit 1).

4. We have reviewed and understand the subject application, including the claims originally filed, and any and all claim amendments made thereafter (the "Claimed Invention").

**Conception**

5. From the period prior to September 23, 2003 until the German priority Patent Application No. DE 103 44 331.2 was filed on September 24, 2003, the inventors were, in conjunction with their attorneys, diligently preparing the subject application for filing the German priority Patent Application No. DE 103 44 331.2. In fact, the German priority Patent Application No. DE 103 44 331.2 was filed September 24, 2003, which is only one day after the critical date September 23, 2003 of Delsing et al. cited by the Examiner.

6. We conceived the Claimed Invention prior to September 23, 2003 (the reference date of Delsing et al.), as evidenced by the following internal documents of OSRAM GMBH ("OSRAM"):

Exhibit 2 is a Phosphor Test Log, Attempt No. TF 119/2003 (1 page).

Exhibit 3 is an English translation of Exhibit 2.

Exhibit 4 is a Phosphor Test Log, Attempt No. TF 119/2003 (3 pages).

Exhibit 5 is an English translation of Exhibit 4.

Exhibit 6 is a graph obtained with an x-ray diffractionmeter.

Exhibit 7 is an English translation of Exhibit 6.

Exhibit 8 is a Notification of Invention.

Exhibit 9 is an English translation of Exhibit 8.

12. We declare that all statements made herein of our own knowledge are true; that all statements made herein on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of this patent application and any patent resulting therefrom.

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Herbert Brunner

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Tim Fiedler

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Frank Jermann

Date: \_\_\_\_\_

By: \_\_\_\_\_  
Jörg STRAUßDate: 3/31/2010By: M. Zachau  
Martin Zachau

# Exhibit 1

UNITED STATES PATENT AND TRADEMARK OFFICE

I, Neil Thomas SIMPKIN BA,

Deputy Managing Director of RWS Group Ltd UK Translation Division, of Europa House,  
Marsham Way, Gerrards Cross, Buckinghamshire, England declare;

1. That I am a citizen of the United Kingdom of Great Britain and Northern Ireland.
2. That the translator responsible for the attached translation is well acquainted with the German and English languages.
3. That the attached is, to the best of RWS Group Ltd knowledge and belief, a true translation into the English language of the accompanying copy of the specification filed with the application for a patent in Germany on September 24, 2003 under the number 103 44 331.2 and the official certificate attached thereto.
4. That I believe that all statements made herein of my own knowledge are true and that all statements made on information and belief are true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the patent application in the United States of America or any patent issuing thereon.



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For and on behalf of RWS Group Ltd

The 13th day of April 2010